

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Terry Nelson,
Petitioner-Appellant,

v.

Dickinson County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 10-30-0595
Parcel No. 03-09-204-007

On May 2, 2011, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant Terry Nelson requested his appeal be considered without hearing. He was self-represented. The Board of Review designated Assistant County Attorney Lonnie Saunders as its legal representative. It submitted documentary evidence in support of its decision. The Appeal Board now having examined the entire record, and being fully advised, finds:

Findings of Fact

Terry Nelson, lessee of property located at Lot 94 McClelland Beach, Spirit Lake, Iowa, appeals from the Dickinson County Board of Review decision reassessing his property. According to the property record card, the subject property is a lakeshore lot on the north end of Big Spirit Lake, with 58.94 feet of lake frontage, 76.82 feet of road frontage, and a depth of 141.68 feet on one side and a depth of 136.19 feet on the other side. The parcel has 63.60 effective front feet, a -8% adjustment for its pie-shape, and a \$5000 per effective front foot. The parcel is located in an area known as McClelland's Beach. The subdivision was platted in 2007 and received developers' depreciation for assessment years 2007, 2008, and 2009. The adjustment, which we assume was related to the three-year platting law, was removed for the 2010 assessment.

The real estate was classified as residential on the initial assessment of January 1, 2010, and valued at \$275,000, allocated entirely to the land. This was a change from the 2009 assessment.

Nelson protested to the Board of Review on the ground the assessment is not equitable as compared to like properties in the taxing jurisdiction under Iowa Code section 441.37(1)(a). He sought a reduction to \$265,230. The Board of Review denied the protest.

Nelson appealed to this Board, alleging the same equity ground and sought a reduction to \$150,000

Nelson submitted a list of the land assessments of other lakefront properties on McClelland Beach, Martha Yarns, and Shore Acres based on a per-linear-foot of shore-frontage value and a per-square-foot value. But Nelson used a different method of calculating the unit values of the properties than that used by the assessor. Nelson simply divided the land assessment by the actual lakefront footage to arrive at per-front-foot values and per-square-foot values. This method failed to apply any depth or shape factor to the properties.

The Board of Review provided an explanation of the method used for calculating land values based on front footage. The dimensions of the lot were used to calculate the effective front foot of lakeshore by adjusting the actual footage by a depth factor, then multiplying the result by a unit price. The assessor uniformly applied a unit price of \$5000 per effective front foot in this lake area. This figure would then be adjusted if a pie-shape lakeshore or other adjustment was needed. Exhibits B and C show the “85-15” method developed and used by the assessor for lakeshore, pie-shaped lots. The following chart summarizes the Board of Review exhibits showing the land assessment of the subject property:

Land Values	Unit Pricing	Lake Frontage	Road Frontage	Lot Depth	Lot Depth	Depth Factor	Effective Front Foot	Pie-Shape Adjustment	Economic Adjustment	Assessed Value
Subject Property	\$5,000	58.94	76.82	141.68	136.19	0.98	63.60	-8%	-10%	\$275,000

The Board of Review also offered exhibits showing four listings of vacant land sales on McClelland Beach. These properties were listed in July 2010, six months after the assessment date, and no actual sale prices were provided for them. The land assessments are summarized in the following chart:

Address	Listing Price	Assessed Land Value	Effective Front Foot	Unit Pricing	Total Adjustments	Map Factor ¹	Assessed Per Effective Front Foot as Adjusted
Subject Property		\$275,000	63.60	\$5000	-8%	0.94	\$4324
Lot 73	\$291,708	\$233,000	55.09	\$5000	-10%	0.94	\$4229
Lot 70	\$286,092	\$229,400	54.23	\$5000	-10%	0.94	\$4230
Lot 46	\$401,688	\$245,100	57.95	\$5000	-10%	0.94	\$4230
Lot 37	\$283,554	\$247,100	66.39	\$5000	-22% ²	0.94	\$3722

The listing price is not relevant to this analysis since no actual sales prices were offered. However, the unit price is uniform for all properties. The assessed land values after adjustments range from \$3722 per effective front foot to \$4230 per effective front foot. As shown below, Nelson's land assessment is slightly higher than the upper end of the range of assessed values for similar properties on McClelland Beach. We note that his property was given less downward adjustments than the other properties.

The Board of Review also provided a list, Exhibit N, of twenty-four land sales that occurred in 2007 and 2008³ when the properties were first made available for purchase by leaseholders. The lots range from 35.23 front feet to 95 front feet. Sale prices ranged from \$140,000 to \$364,950, or \$5000 per front foot. The 2010 land assessments for these properties range from \$118,400 to \$291,500, or \$3977 to \$4700 per front foot and a median of \$4366 per front foot. Nelson's land is assessed at

¹ After the total adjustments are made to the unit price, a map factor is applied to calculate the adjusted assessed value per effective front foot.

² This property had a 10% adjustment that was applied first and an additional 12% adjustment was applied to the balance before applying the map factor.

³ With the exception of one sale from 2004, the list was limited to the 2007 to 2008 time period.

\$4324 per front foot, which is well within the range and below the median for these lakeshore sale properties in Exhibit N.

Reviewing the record, we find the preponderance of the evidence does not support Nelson's contention his assessment is inequitable. We find the Board of Review's explanation of land pricing was reasonable and the method was applied uniformly to other lakefront lots in Nelson's area. While Nelson's property was given less downward adjustment than the other properties, the Board of Review summary states his lot was given an 8% pie adjustment because it had more footage on the rear portion of the land than the lake shore frontage.⁴ This percentage conforms to the adjustment for a difference of sixteen to eighteen feet more rear footage than lake frontage. Therefore, we believe the record does not support Nelson's claim of inequitable assessment as of January 1, 2010.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

⁴ The rear footage of Nelson's lot is approximately eighteen feet more than the lake shore frontage.

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). Nelson failed to prove inequity under either of these methods.

Viewing the record as a whole, we determine the preponderance of the evidence does not support the Nelson's claim of inequitable assessment as of January 1, 2010. We, therefore, affirm the property assessment as determined by the Board of Review. The Appeal Board determines the property assessment value as of January 1, 2010, is \$275,000, representing \$275,000 in land value and no improvement value.

THE APPEAL BOARD ORDERS the January 1, 2010, assessment as determined by the Dickinson County Board of Review is affirmed.

Dated this 6 day of July 2011.

Jacqueline Rypma
Jacqueline Rypma, Presiding Officer

Karen Oberman
Karen Oberman, Board Member

Richard Stradley
Richard Stradley, Board Chair

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>7-6</u> , 201 <u>1</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u>[Signature]</u>